

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

ALICE PETRONE,
Plaintiff,

v.

FEDERAL HOUSING FINANCE AGENCY,
FEDERAL HOME LOAN MORTGAGE
CORPORATION,
BAYVIEW LOAN SERVICING, LLC, and :
MANUFACTURERS AND TRADERS TRUST :
COMPANY¹ d/b/a M & T BANK, :
Defendants. :

CIVIL ACTION NO.
18-CV-00549-JJM-LDA

**RULE 16(b) WRITTEN SUMMARY STATEMENT OF
BAYVIEW LOAN SERVICING, LLC AND MANUFACTURERS AND TRADERS
TRUST COMPANY d/b/a M & T BANK**

Bayview Loan Servicing, LLC (“Bayview”) and Manufacturers and Traders Trust Company d/b/a M & T Bank (“MTB”), hereby present their Rule 16(b) written statement² as set forth below:

I. Facts Summary

1. On March 16, 2007, Alice Petrone (“Petrone”) executed a note to Washington Mutual Bank, FA (“Washington Mutual”), in the amount of Two Hundred and Twenty-Three Thousand (\$223,000.00) Dollars (“Note”).
2. The Note is secured by a mortgage, dated March 16, 2007 (“Mortgage”), on the property located at 24 Bretton Woods Drive, Cranston, Rhode Island (“Property”).³

¹ Plaintiff’s reference to Merchant and Traders Trust Company d/b/a M & T Bank is a misnomer. The correct name is Manufacturers and Traders Trust Company.

² In submitting the instant court mandated summary statement neither Bayview nor MTB in anyway intend to abrogate their previously filed answer including affirmative defenses, waive any future averments or arguments, or otherwise limit their ability to defend this action.

3. The Note was subsequently indorsed⁴ in blank by Washington Mutual.
4. On September 26, 2008, Washington Mutual was placed in receivership with the Federal Deposit Insurance Corporation. Washington Mutual's assets, including the Note and Mortgage, were eventually sold to JPMorgan Chase Bank ("JPMorgan").
5. The Note was subsequently transferred to Federal Home Loan Mortgage Corporation ("Freddie Mac").
6. Freddie Mac is the current holder of the Note.
7. Upon information and belief, on or about February 1, 2012, Petrone defaulted on the Mortgage. She has not come current on the Mortgage since that date.
8. An assignment of the Mortgage to JPMorgan was recorded on February 19, 2013 ("JP Morgan Assignment").⁵
9. An assignment of the Mortgage to Bayview was recorded on January 21, 2014 ("Bayview Assignment").⁶
10. An assignment of the Mortgage to Freddie Mac was recorded on December 5, 2014 ("Freddie Mac Assignment").⁷
11. Freddie Mac is the current holder of the Mortgage.
12. The Mortgage has been serviced by Bayview and/or MTB throughout the time period Bayview and/or Freddie Mac have held the Note and/or Mortgage.
13. When required, a monthly mortgage statement was sent to Petrone or her attorney.

³ Land Evidence Records of the City of Cranston at Book 3623, Page 224.

⁴ "Indorse" and "indorsement" are used herein in order to remain consistent with the UCC spelling.

⁵ Land Evidence Records of the City of Cranston at Book 4691, Page 348.

⁶ Land Evidence Records of the City of Cranston at Book 4862, Page 233.

⁷ Land Evidence Records of the City of Cranston at Book 4990, Page 52.

14. A foreclosure sale of the Property was scheduled for December 3, 2015, at 2:00 pm.
15. On October 28, 2015, Petrone filed a complaint in Providence/Bristol County Superior Court (“Prior Action”), which in part sought to enjoin the foreclosure sale scheduled for December 3, 2015.
16. The foreclosure sale scheduled for December 3, 2015, never took place.
17. On or about January 12, 2016, Petrone voluntarily dismissed the Prior Action.
18. A foreclosure sale of the Property was scheduled for October 19, 2018, at 2:00 pm.
19. On October 3, 2018, Petrone filed her complaint and initiated the instant action.
20. The scheduled foreclosure sale was cancelled on October 10-11, 2018, and never took place.
21. On June 7, 2019, Freddie Mac counterclaimed for judicial foreclosure of the Mortgage.

II. Legal Issues Summary

22. Whether Petrone’s due process violation claim was rendered moot by cancellation of the foreclosure sale and counterclaim for judicial foreclosure?
23. Whether Petrone’s R.I.G.L. § 34-27-3.1 claim was rendered moot by cancellation of the foreclosure sale and counterclaim for judicial foreclosure?
24. Whether Freddie Mac is liable to Petrone for violations of the Truth in Lending Act (12 C.F.R. 1026.41 and 15 U.S.C. 1638)?
25. Whether Bayview and/or MTB are liable to Petrone for violations of the Fair Debt Collection Practices Act (15 U.S.C. 1692)?
26. Whether Petrone presents an actionable claim for injunctive relief and injunction?

Respectfully submitted,

BAYVIEW LOAN SERVICING, LLC,
and M&T BANK

By their attorneys,

/s/ Amy Magher
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Dated: July 5, 2019

CERTIFICATION OF SERVICE

I hereby certify that on the 5th day of July 2019, I caused a true and correct copy of the within document to be e-filed with the District Court of Rhode Island and caused a true and correct copy of this document to be served through the electronic filing system on the following parties:

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/s/ Amy Magher
Michienzie & Sawin, LLC